

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Hidetaka ITO et al.	)	<b>ATTN: M/S AF</b>
	)	
Serial No.: 10/038,655	)	Group Art Unit: 2154
	)	
Filed: January 8, 2002	)	Examiner: D. Nguyen
	)	
For: SWITCHING OF PVC CONNECTION	)	

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Applicant respectfully requests review of the final Office Action, dated May 1, 2006, in view of the Remarks below and in conjunction with the Notice of Appeal filed concurrently with this request.

**Remarks** begin on page 2 of this paper.

REMARKS

Claims 1-18 are pending in this application. Claim 3 stands rejected under 35 U.S.C. § 112, second paragraph, as indefinite; claims 1, 2, 4, 5, 7, 9-13, 15, 16, and 18 stand rejected under 35 U.S.C. § 102(e) as anticipated by Yamada et al. (U.S. Patent Publication No. 2003/0137933); claims 3, 8, and 14 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Yamada et al. in view of Heeren et al. (U.S. Patent No. 6,311,288); and claims 6 and 17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Yamada et al. in view of Nagata et al. (U.S. Patent No. 6,181,680). Applicant respectfully requests review of the final rejection based on the reasons summarized below.

The Examiner's rejection of claim 3 under 35 U.S.C. § 112, second paragraph, as indefinite, is improper. At pages 2-4 in the Request for Reconsideration, filed June 29, 2006, Applicant explained why the Examiner's interpretation of claim 3 is unreasonable and improper.

For at least these reasons, Applicant respectfully submits that claim 3 is definite under 35 U.S.C. § 112, second paragraph.

The rejection of claims 1, 2, 4, 5, 7, 9-13, 15, 16, and 18 under 35 U.S.C. § 102(e), as allegedly anticipated by Yamada et al., contains factual deficiencies. For example, each of independent claims 1, 7, 11, and 18 includes features that are clearly not disclosed by Yamada et al.

With regard to independent claim 1, for example, Yamada et al. does not disclose or suggest setting a plurality of PVC connections and individually corresponding controlling connections between two exchanges of a communication network. See, for example, the arguments at pages 5-10 of the Request for Reconsideration filed June 29, 2006.

The Examiner alleged that Yamada et al. discloses primary connections, which allegedly correspond to a plurality of PVC connections in claim 1, and corresponding reserve relay connections, which allegedly correspond to the individually corresponding controlling connections recited in claim 1, and cited Figs. 2 and 3 and paragraphs 0009, 0042, 0046, and 0048 of Yamada et al. for support. Final Office Action, paragraph 19. For at least the reasons given at pages 5-8 of the Request for Reconsideration, filed June 29, 2006, Applicant respectfully submits that the Examiner's interpretation of the disclosure of Yamada et al. is improper and unreasonable.

The Examiner further alleged that Yamada et al. discloses a PVC connection (as line X) and a corresponding controlling connection (as the control PVC), and shows a plurality of PVC connections and corresponding controlling connections (as lines X and Y), and cited Figs. 10 and 25 of Yamada et al. for support. Final Office Action, paragraph 6. For at least the reasons given at pages 9-10 of the Request for Reconsideration, filed June 29, 2006, Applicant respectfully submits that nowhere in these sections

does Yamada et al. disclose or suggest setting a plurality of PVC connections and individually corresponding controlling connections between two exchanges of the communication network and switching an operative PVC connection to another one of the PVC connections in response to a result of the detection, as required by claim 1.

For at least these reasons, Applicant respectfully submits that claim 1 is not anticipated by Yamada et al. Claims 2, 4, and 5 depend from claim 1 and are, therefore, not anticipated by Yamada et al. for at least the reasons given with regard to claim 1. Claims 2, 4, and 5 are also not anticipated by Yamada et al. for reasons of their own.

For example, claim 4 recites that the controlling connections are set by an operation administration and maintenance function. The Examiner alleged that Yamada et al. discloses that controlling connections are set by an operation administration and maintenance function. Final Office Action, paragraph 21. For at least the reasons given at pages 10-13 of the Request for Reconsideration, filed June 29, 2006, Applicant respectfully submits that the Examiner has failed to establish a proper case of anticipation.

For at least these additional reasons, Applicant respectfully submits that claim 4 is not anticipated by Yamada et al.

Claim 5 recites that each of the exchanges detects trouble through receipt of an alarm indication signal cell from the operation administration and maintenance function over one of the controlling connections. The Examiner alleged that Yamada et al. discloses that each of the exchanges detects trouble through receipt of an alarm indication signal cell from the operation administration and maintenance function over one of the controlling connections. Final Office Action, paragraph 22. For at least the reasons given at pages 13-15 of the Request for Reconsideration, filed June 29, 2006, Applicant respectfully submits that the Examiner has failed to establish a proper case of anticipation.

For at least these additional reasons, Applicant respectfully submits that claim 5 is not anticipated by Yamada et al.

With regard to independent claim 7, Yamada et al. does not disclose or suggest, for example, setting a bypassing PVC connection prepared in advance for bypassing of a master PVC connection and a bypassing side OAM connection corresponding to the bypassing PVC connection between first and second exchanges. See, for example, the arguments at pages 15-18 of the Request for Reconsideration filed June 29, 2006.

The Examiner alleged that Yamada et al. discloses a set of reserve line connections, which the Examiner alleged was equivalent to bypassing PVC connections and cited Figs. 2 and 4, and paragraphs

0046 and 0048 of Yamada et al. for support. Final Office Action, paragraph 23. Regardless of the merit of the Examiner's allegation, Applicant submits that the Examiner did not fully address the features of claim 7. Claim 7 recites setting a bypassing PVC connection prepared in advance for bypassing of the master PVC connection and a bypassing side OAM connection corresponding to the bypassing PVC connection between the first and second exchanges. Yamada et al. discloses nothing similar to a bypassing side OAM connection, as required by claim 7. The Examiner did not address this portion of claim 7 and, therefore, did not establish a proper case of anticipation with regard to claim 7. For at least these reasons and the reasons given at pages 15-17 of the Request for Reconsideration, filed June 29, 2006, Applicant respectfully submits that the Examiner's interpretation of the disclosure of Yamada et al. is improper and unreasonable.

The Examiner further alleged that Yamada et al. discloses a connection management table that stores backup connection identifiers (which the Examiner equated to a bypassing PVC connection), backup connection QoS, backup connection usage bandwidth and other backup connection attributes (which the Examiner equated to a bypassing side OAM connection). Final Office Action, paragraph 12. Applicant submits that the Examiner's interpretation of Yamada et al. is unreasonable. A backup connection quality of service (QoS), a backup connection usage bandwidth, and/or backup connection attributes cannot reasonably be equated to a bypassing OAM connection that corresponds to a bypassing PVC connection, as required by claim 7. For at least these reasons and the reasons given at pages 17-18 of the Request for Reconsideration, filed June 29, 2006, Applicant respectfully submits that nowhere in these sections, or any other section, does Yamada et al. disclose or suggest setting a plurality of PVC connections and individually corresponding controlling connections between two exchanges of the communication network and switching an operative PVC connection to another one of the PVC connections in response to a result of the detection, as required by claim 7.

For at least these reasons, Applicant respectfully submits that claim 7 is not anticipated by Yamada et al. Claims 9 and 10 depend from claim 7 and are, therefore, not anticipated by Yamada et al. for at least the reasons given with regard to claim 7.

Independent claim 11 recites features similar to, but possibly different in scope from, features recited in claim 1. Claim 11 is, therefore, not anticipated by Yamada et al. for at least reasons similar to reasons given with regard to claim 1. Claims 12, 13, 15, and 16 depend from claim 11 and are, therefore, not anticipated by Yamada et al. for at least the reasons given with regard to claim 11

Independent claim 18 recites features similar to, but possibly different in scope from, features recited in claim 7. Claim 18 is, therefore, not anticipated by Yamada et al. for at least reasons similar to reasons given with regard to claim 7.

The rejection of claims 3, 8, and 14 under 35 U.S.C. § 103(a), as allegedly unpatentable over Yamada et al. in view of Heeren et al., contains factual deficiencies.

Claims 3, 8, and 14 depend from claims 1, 7, and 11, respectively. The disclosure of Heeren et al. does not cure the deficiencies in the disclosure of Yamada et al. identified with regard to claims 1, 7, and 11. For at least these reasons and the additional reasons given at pages 19-22 of the Request for Reconsideration, filed June 29, 2006, Applicant respectfully submits that the Examiner's rejection falls short of establishing a prima facie case of obviousness with regard to claims 3, 8, and 14.

The rejection of claims 6 and 17 under 35 U.S.C. § 103(a), as allegedly unpatentable over Yamada et al. in view of Nagata et al., contains factual deficiencies.

Claims 6 and 17 depend from claims 1 and 11, respectively. The disclosure of Nagata et al. does not cure the deficiencies in the disclosure of Yamada et al. identified with regard to claims 1 and 11. For at least these reasons and the additional reasons given at pages 22-23 of the Request for Reconsideration, filed June 29, 2006, Applicant respectfully submits that the Examiner's rejection falls short of establishing a prima facie case of obviousness with regard to claims 6 and 17.

In view of the foregoing remarks, Applicant submits that clear deficiencies exist with respect to the rejections of claims 1-18. Therefore, Applicant respectfully requests withdrawal of the outstanding rejections and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,  
HARRITY SNYDER, LLP  
/Paul A. Harrity/  
Paul A. Harrity  
Reg. No. 39,574

Date: August 23, 2006  
11350 Random Hills Road  
Suite 600  
Fairfax, Virginia 22030  
(571) 432-0800